

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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SAID VEDAD, KAREN VEDAD and
TIRAMISU RESTAURANT, LLC

Plaintiffs,

--against--

EXPRESS WORKING CAPITAL, LLC,

Defendants.
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Case No.: 16-8534

NOTICE OF REMOVAL

Supreme Court of the State of
New York,
County of New York
Index No.: 655134/2016

TO: UNITED STATES DISTRICT COURT, SOUTHERN DISTRICT OF NEW YORK

PLEASE TAKE NOTICE that, pursuant to 28 U.S.C. § 1332 and 1446, the defendant EXPRESS WORKING CAPITAL, LLC, by and through their attorneys, QUINTAIROS, PRIETO, WOOD & BOYER, PA, hereby removes this action to the United States District Court for the Southern District of New York. Defendants respectfully state the following as the basis for removal of this action:

1. The Defendant herein, EXPRESS WORKING CAPITAL, LLC, is a named Defendant in a civil action entitled *Said Vedad, Karen Vedad, and Tiramisu Restaurant, LLC*, Index No.: 655134/2016 pending in Supreme Court of the State of New York, County of New York (“NY State Court Action”).

2. Plaintiffs Said Vedad, Karen Vedad and Tiramisu Restaurant, LLC (collectively “plaintiffs”) filed the Complaint in the State Court Action in the Supreme Court of the State of New York, County of New York on or about September 28, 2016. See Complaint annexed hereto as Exhibit “A”.

3. Defendant’s agent, CT Corporation, received a copy of the Complaint in the NY State Court Action in Delaware on November 3, 2016.

4. Under 28 U.S.C. §1446(b), the removal is timely. This Notice of Removal is being filed within thirty (30) days of the Defendant's receipt of the Complaint.

5. Venue is proper in this Court pursuant to 28 U.S.C. §1441(a) because the State Court Action is pending in the Supreme Court of the State of New York, County of New York.

6. Pursuant to 28 U.S.C. §1446(a), Defendant annexes hereto as Exhibit "A" a copy of all "process, pleadings and orders" served on Defendants in this action to date.

7. According to the Complaint in the NY State Court Action, the plaintiff Said Vedad was and still is a resident of the City, County and State of New York. See Exhibit "A".

8. According to the Complaint in the NY State Court Action, the plaintiff Karen Vedad was and still is a resident of the City, County and State of New York.

9. According to the Complaint in the NY State Court Action, and public documents on the NY Division of Corporations website, Plaintiff TIRAMISU RESTAURANT, LLC is an active limited liability company duly organized and existing under the laws of the State of New York, with its principal place of business in New York County, and is owned by Plaintiff Karen Vedad as its sole member. See Exhibit "A" ¶3.

10. Defendant EXPRESS WORKING CAPITAL, LLC is a Delaware limited liability company, doing business in the State of Texas, with its principal place of business at 4890 Alpha Road, Suite 200, Dallas, Texas, 75224.

11. The Complaint in the NY State Court action alleges damages in excess of \$75,000, exclusive of interests and costs, and is between citizens of different states within the meaning of 28 U.S.C. §1332(a)(1). Specifically, the Complaint in the NY State Court Action states that plaintiffs are seeking to recover damages of \$198,953.39. See Exhibit "A" at pg. 13.

Therefore, this Court has jurisdiction over this action pursuant to 28 U.S.C. §1332(a)(1), and removal of this action is proper pursuant to 28 U.S.C. §1441.

12. By removing this action, the Defendant does not waive any rights, claims or defenses. Defendants expressly preserve their rights to assert any and all jurisdictional or other defenses.

13. Pursuant to 28 U.S.C. §1446(d), Defendant shall promptly give plaintiffs written notice of the filing of this Notice of Removal, and Defendants shall file written notice of having filed this Notice of Removal with the clerk of the Supreme Court of the State of New York, County of New York, attaching thereto a copy of this Notice.

14. This action is related, and concerns identical issues, to an action that was previously filed in the 160th District Court of Dallas County, Texas, before commencement of the NY State Court Action, by defendant EXPRESS WORKING CAPITAL, LLC. The earlier filed Texas action is entitled *Express Working Capital v. Tiramisu Restaurant, Inc., et al*, Case No.: DC-16-08213 (hereinafter “Texas State Action”). See Exhibit “B”. Both cases concern damages relating to a Future Receivables Sales Agreement between the parties dated September 19, 2011. See Exhibit “A” ¶16, see also Exhibit “B” ¶9. Accordingly, the instant action is duplicative, and should be dismissed.

WHEREFORE, defendant EXPRESS WORKING CAPITAL, LLC respectfully removes the matter titled *Said Vedad, Karen Vedad, and Tiramisu Restaurant, LLC*, Index No.: 655134/2016 pending in Supreme Court of the State of New York, County of New York, to this Court, and respectfully requests that the matter proceed in this Court as an action properly removed thereto.

Dated: New York, New York
November 2, 2016

Respectfully submitted,

QUINTAIROS, PRIETO, WOOD & BOYER, PA
Attorneys for Defendant Express Working Capital, LLC



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